

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 DHA-02 CIAE-00 DODE-00 PM-04 H-01  
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02  
SS-15 USIA-06 ORM-02 /062 W  
-----301257Z 057173 /53

R 291540Z APR 77  
FM AMEMBASSY BERLIN  
TO SECSTATE WASHDC 4650  
INFO AMEMBASSY BELGRADE  
AMEMBASSY BONN  
AMEMBASSY BUCHAREST  
AMEMBASSY BUDAPEST  
AMEMBASSY MOSCOW  
AMEMBASSY PRAGUE  
AMEMBASSY SOFIA  
AMEMBASSY WARSAW  
USMISSION USBERLIN UNN  
USMISSION NATO

C O N F I D E N T I A L BERLIN 5877

E O 11652: GDS  
TAGS: PFOR CSCE CGEN CVIS CASC SHUM SREF GE XH US  
SUBJ: DIVIDED FAMILIES: GDR AMNESTRY PRACTICES FOR FORMER RESI  
DENTS OF EAST GERMANY

REF: A) PRAGUE 1026, B) BERLIN 5749 (BOTH NOTAL)

1. WE WERE INTERESTED TO READ ABOUT A POSSIBLE GOC CONDITIONAL  
AMNESTY PROPOSAL COMMUNICATED TO PRAGUE EMBASSY ON APRIL 21.  
WHILE WE RECOGNIZE THAT THE WAY THINGS HAPPEN IN THE GDR IS  
NOT NECESSARILY APPLICABLE TO OTHER WARSAW PACT COUNTRIES,  
ADDRESSEES MAY BE INTERESTED IN HOW THE GDR CAME TO SATIS-  
FACTORY GRIPS WITH THE PROBLEM OF PERSONS GUILTY OF "REPUBLIK-  
FLUCHT" ("FLIGHT FROM THE REPUBLIC") DURING THE  
INNER-GERMAN NEGOTIATIONS OF THE EARLY 1970'S.  
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2. ACCORDING TO FRG PERMREP CONTACTS HERE, THE FRG ASKED THE  
GDR TO INCLUDE IN THE AGREEMENTS ON INNER-GERMAN  
VISITS AND TRAVEL, SOME LANGUAGE MAKING IT POSSIBLE FOR  
"REPUBLIC FLEE'ERS" IN WEST GERMANY (INCLUDING MANY  
THOUSAND FORMER EAST GERMAN RESIDENTS) TO VISIT FAMILY  
AND FRIENDS IN THE GDR WITHOUT BEING PROSECUTED FOR THIS

OFFENSE. THE GDR REFUSED TO MENTION SUCH PERSONS IN THE AGREEMENTS AS SUCH. HOWEVER, THE GDR TOOK TWO EXECUTIVE/ LEGISLATIVE STEPS WHICH MET THE FRG'S NEEDS WHILE SAVING EAST GERMAN FACE:

A. ON OCTOBER 6, 1972, AN AMNESTY WAS PROCLAIMED ON THE OCCASION OF THE 23RD ANNIVERSARY OF THE FOUNDING OF THE GDR, WHICH, IN EFFECT, EXCUSED PERSONS ALREADY CONVICTED IN ABSENTIA OF A NUMBER OF CRIMES, INCLUDING "FLIGHT FROM THE REPUBLIC" FROM BEING IMPRISONED FOR THOSE PORTIONS OF THE SENTENCES NOT YET SERVED.

B. ON OCTOBER 26, THE GDR PASSED A LAW STATING THAT PERSONS WHO FLED THE GDR ILLEGALLY PRIOR TO JANUARY 1, 1972 WOULD NOT BE PROSECUTED CRIMINALLY FOR SUCH ACTS BUT WOULD BE DEPRIVED OF GDR CITIZENSHIP.

3. THE EFFECT OF THESE TWO GDR GOVERNMENTAL ACTIONS IS TO PERMIT PERSONS WHO LEFT EAST GERMANY ILLEGALLY PRIOR TO THE CUT-OFF DATES TO RETURN TO VISIT HERE WHILE TRAVELING ON NON-GDR DOCUMENTATION WITHOUT FEAR OF CRIMINAL PROSECUTION. SINCE OPENING IN 1974, THE EMBASSY HAS LEARNED OF MANY AMERICAN CITIZENS, FORMERLY RESIDING HERE, WHO DEPARTED ILLEGALLY BUT HAVE RE-VISITED WITH IMPUNITY BECAUSE OF THE LAW AND AMNESTY.

4. AS WE UNDERSTAND IT, THE AFFECTED PERSON DID NOT HAVE TO APPLY FOR AMNESTY. THE FACT OF ABSENCE AND ARRIVAL AT GDR BORDERS WITH NON-GDR DOCUMENTATION WAS CONFIDENTIAL

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APPARENTLY PRESUMED EVIDENCE THAT THE INDIVIDUAL CONCERNED WAS AFFECTED BY THESE GOVERNMENTAL ACTS. THE VOLUME OF PEOPLE LEAVING THE GDR PRIOR TO THE ERECTION OF THE WALL IN AUGUST, 1961 (WHEN "REPUBLIK-FLUCHT" WAS ALREADY A CRIME) SUGGESTS THAT, IN MANY CASES, THE AUTHORITIES ONLY BECAME AWARE OF MANY INDIVIDUALS' FORMER GDR STATUS WHEN THEY REGISTERED WITH THE POLICE FOR RESIDENT PERMITS AFTER ENTRY. WE ESTIMATE THE NUMBERS OF ILLEGAL FLEE-ERS TO BE FAR IN EXCESS OF 20,000 BETWEEN THE FOUNDING OF THE GDR IN 1949 TO THE CUT OFF DATES. MANY OF OUR HUMANITARIAN CASES INVOLVE SUCH PEOPLE AS THE AMERICAN PRINCIPAL. WE HAVE NO EVIDENCE OF EITHER ORDINARY TRAVELERS OR AMERICAN PRINCIPALS IN HUMANITARIAN CASES BEING DENIED FULL BENEFITS OF THESE GOVERNMENTAL ACTS OR OF SUCH HUMANITARIAN CASES BEING HINDERED IN RESOLUTION SOLELY BECAUSE THE US PRINCIPAL HAD FLED THE GDR ILLEGALLY.

5. COMMENT: WE SEE SEVERAL REASONS FOR THE RELATIVE

SUCCESS OF THE GDR AMNESTY/LAW PACKAGE OF "REPUBLIK-  
FLUCHT".

A. THE NUMBERS WHO FLED FROM THE GDR SINCE 1949  
TO THE CUT OFF DATE WERE SO MASSIVE THAT EVEN THE  
ENORMOUS BUREAUCRACY OF EAST GERMANY COULD NOT HAVE  
COPEd WITH THE PROBLEM ONCE THE INNER-GERMAN ACCORDS  
WENT INTO EFFECT.

B. THE ENTIRE RANGE OF INNER-GERMAN DEVELOPMENTS  
SINCE THE EARLY 1970'S, AS WELL AS THE RELATED FIELDS  
OF PROGRESS UNDER THE RUBIC OF DETENTE, INCLUDING  
THE "RECOGNITION WAVE" FROM WHICH THE GDR BENEFITED  
SINCE LATE 1973, WOULD HAVE BEEN MADE INFINITELY  
MORE DIFFICULT IF THIS IMPORTANT HUMANITARIAN ASPECT  
OF RELATIONS BETWEEN THE TWO GERMAN STATES HAD NOT  
BEEN SATISFACTORILY SETTLED. POLANSKY  
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## Message Attributes

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